

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN LORENTS GROSFIELD**, on March 8, 1999  
at 10:00 A.M., in Room 405 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Lorents Grosfield, Chairman (R)  
Sen. Al Bishop, Vice Chairman (R)  
Sen. Sue Bartlett (D)  
Sen. Duane Grimes (R)  
Sen. Mike Halligan (D)  
Sen. Ric Holden (R)  
Sen. Reiny Jabs (R)  
Sen. Walter McNutt (R)

**Members Excused:** Sen. Steve Doherty (D)

**Members Absent:** None.

**Staff Present:** Judy Keintz, Committee Secretary  
Valencia Lane, Legislative Branch

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 94, HB 357, 3/6/1999  
Executive Action: HB 24, HB 94, HB 357

**HEARING ON HB 94**

**Sponsor:** REP. JOHN COBB, HD 50, Augusta

**Proponents:** Beth Baker, Department of Justice  
Mary Bryson, Department of Revenue  
Cathy Muri, Department of Administration

**Opponents:** None

**Opening Statement by Sponsor:**

**REP. JOHN COBB, HD 50, Augusta,** introduced HB 94 which makes permanent the Attorney General's duty to represent the state in bankruptcy proceedings. The Bankruptcy Unit has collected over a million dollars. The program is paying for itself. To go outside the state government, the cost would double. New Section 2 allows the department to become involved in matters involving bankruptcy and providing legal assistance to any state agency. The fee collected is placed into an internal service fund. They want to have a 60-day working capital reserve. The rest of the funds go to the different departments they represent.

**{Tape : 1; Side : A; Approx. Time Counter : 10.07}**

**Proponents' Testimony:**

**Beth Baker, Department of Justice,** reported that in just over three years of operation, the Bankruptcy Unit has collected over \$1.2 million for state agencies. This is basically \$3 for every dollar that is spent on the program. They have established a pro active presence in the bankruptcy court. The unit provides legal advice and services to agencies beyond the collection of money. She provided a letter from the Department of Public Health and Human Services, **EXHIBIT(jus52a01)** and information on the Bankruptcy Unit, **EXHIBIT(jus52a02)**.

**Mary Bryson, Department of Revenue (DOR),** remarked that they have used this Unit since it's inception. They maintain a contract with the Department of Justice to provide legal assistance regarding bankruptcies. It only makes sense for the State of Montana to have one legal unit that practices in this unique area on a regular basis. This bill also gives the department the authority to perform legal work in collection matters and also provides the department the ability to charge a reasonable fee for the services it provides.

**Cathy Muri, Department of Administration,** rose in support of HB 94 and commented that the debt collection unit deals mostly with debts that have been outstanding for some time.

**Opponents' Testimony:** None.

**{Tape : 1; Side : A; Approx. Time Counter : 10.15}**

**Questions from Committee Members and Responses:**

**SEN. HOLDEN** questioned why this legislation was temporary. **Ms. Baker** responded that it was believed that this program was too

new to determine whether it would ultimately be successful. There is a good record at this time.

**SEN. HALLIGAN** asked for an example of where the funds would be placed. **REP. COBB** remarked that if there was too much excess money in the fund, instead of collecting the normal 20% fee, this may be lowered to 17% or 18%. There would always be a 60-day working reserve. **Ms. Baker** explained that most of the legal work for collection that would not be on a contingency basis would be General Fund recoveries. On a monthly basis, they track the amount of money on each case and for each agency. Some agencies prefer to pay by the hour and are charged the same rate as the agency legal services bureau charges. At the end of the year if the reserve is over the 60-day reserve, the cases which were a percentage would receive a prorata share of the extra funds.

**SEN. JABS** asked what types of debts were collected. **Ed Nolde, Department of Justice, Bankruptcy Attorney**, explained that taxes are the largest component of their collections. They also collect lottery proceeds for retailers who have sold on-line or scratch off lottery tickets and haven't forwarded the funds to the state lottery. Fees for hunting and fishing licenses which were sold by a retailer and not remitted are also collected. Penalties for pollution may be collected. They have worked with DPHHS on recovery of overpayments for Medicaid. This includes a small number of cases but a large dollar amount. In many cases, they become involved in collection matters in anticipation of a bankruptcy to help the agency maximize its chances of recovery.

**SEN. HALLIGAN** asked for further explanation of the environmental issues involved in bankruptcy. **Mr. Nolde** remarked that before bankruptcy was discussed in the Pegasus' matter, they advised the Department of Environmental Quality regarding ways to structure its settlement on the water quality issues, ways to deal with a prospective third-party bond, and setting up a surety arrangement to make it as bankruptcy proof as possible. He helped the department find local counsel in Nevada.

**Closing by Sponsor:**

**REP. COBB** closed on HB 94.

*{Tape : 1; Side : A; Approx. Time Counter : 10.22}*

**HEARING ON HB 357**

**Sponsor:** **REP. JOHN COBB, HD 50, Augusta**

**Proponents:** **None**

**Opponents:**           None

**Opening Statement by Sponsor:**

REP. JOHN COBB, HD 50, Augusta, introduced HB 357 which expands exemption of those who must file an application for determination of tax in joint tenancy to include lineal descendants and stepchildren. He remarked that a form was sent to the Department of Revenue and if taxes were owed, they would send it back to the person involved. Under Montana law, a spouse or lineal descendent or a stepchild would not pay any tax. The spouse only needs to fill out a simple form, **EXHIBIT(jus52a03)**. All that is necessary is that the legal description must be provided on the form. A lineal descendent or a stepchild must still fill out a lengthy form. This bill allows lineal descendants and stepchildren to fill out the same type of form as a spouse. The lengthy form must be recorded and this costs six dollars per page to file.

In the House hearing, there was a question regarding two sons who were joint tenants. Should they both file at the same time? One may file and the other may not file using the same form. An amendment could be added to address this if necessary.

**Proponents' Testimony:**   None.

**Opponents' Testimony:**   None.

*{Tape : 1; Side : A; Approx. Time Counter : 10.26}*

**Questions from Committee Members and Responses:**

SEN. HALLIGAN asked what cover information would be necessary with the form. REP. COBB explained that the lengthier form was sent to the department first. It was then returned for filing with the clerk and recorders office. The new form would be filed with the realty transfer deed. This would bypass the Department of Revenue. He added that if the value of the entire estate exceeded \$625,000, they wanted the lengthier form filed out.

**Closing by Sponsor:**

REP. COBB closed on HB 357.

**EXECUTIVE ACTION ON HB 357**

**Motion:**   SEN. HALLIGAN moved that HB 357 BE CONCURRED IN.

**Discussion:**

**CHAIRMAN GROSFIELD** questioned whether the form would change to allow for the additional value of the entire state as provided by federal tax code. **Ms. Lane** remarked that the form was not being enacted by the legislation.

**Vote:** Motion carried unanimously -8-0.

**EXECUTIVE ACTION ON HB 94**

**Motion/Vote:** SEN. HALLIGAN moved that HB 94 BE CONCURRED IN.  
Motion carried unanimously - 8-0.

**EXECUTIVE ACTION ON HB 24**

**SEN. HALLIGAN** remarked that he has received calls from an irate parent from out-of-state who is not able to contact a child. When a party tries to get jurisdiction in Montana, this makes sure that the home state remains the jurisdiction for the case unless abuse and neglect are involved. This gives the law some definitions so that the children are not used as pawns in the process.

**Motion/Vote:** SEN. HALLIGAN moved that HB 24 BE CONCURRED IN.  
Motion carried unanimously - 8-0.

**ADJOURNMENT**

Adjournment: 10:42 A.M.

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SEN. LORENTS GROSFIELD, Chairman

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JUDY KEINTZ, Secretary

LG/JK

**EXHIBIT** (jus52aad)